

### **REMARKS**

As set forth in the Advisory Action mailed on October 18, 2007, claims 1-4 and 7-17 are allowed, however claims 18-21 and 23-26 stand rejected.

#### ***Amendments to the Claims***

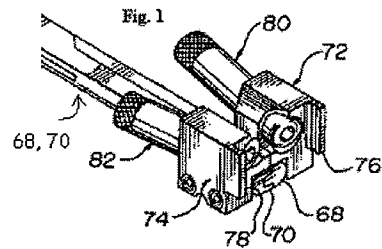
Applicants amend claim 18 to recite first and second tissue retractor devices, and to recite that the cross member removably connects the first and second devices. Claim 21 is amended to clarify that the guide member is disposed on the distal portion of the elongate member at a location proximal to a distal end of the elongate member such that the distal end of the elongate member extends a distance beyond a distal-most end of the guide member to form an extension portion that is configured to rest against an outer edge of the spinal fixation plate to align the guide member with the spinal fixation plate, the guide member. Support for these amendments can be found throughout the specification and in the drawings. No new matter is added.

#### ***Claim Rejections Pursuant to 35 U.S.C. §103***

In the final Office Action, the Examiner rejects claims 18-21 and 23-26 pursuant to 35 U.S.C. §103(a) as being obvious in view of U.S. Patent No. 5,676,666 of Oxland et al. ("Oxland").

With regard to independent claim 18, in the Advisory Action the Examiner comments that the hinge of Oxland can be considered to form the claimed cross member "because its axis crosses that of the elongate member and the hinge is capable of being used to connect two guide members (e.g., it is capable of acting as a support for a clamp or connector, which is not claimed.)" While Applicants continue to disagree, as claim 18 requires that the cross connector be capable of coupling two guide devices and not a clamp or connector, amended claim 18 recites a cross connector removably connecting first and second tissue retractor and guide devices. Oxland does not teach two tissue retractor and guide devices that are connected by a cross connector. Claim 18, as well as claims 19-20 which depend therefrom, therefore distinguish over Oxland and represents allowable subject matter.

With regard to independent claim 21, in the Advisory Action the Examiner comments that the extension cleats of Oxland "may extend from the guide but are nevertheless still formed on a distal end of the elongate member, at least because both the guide and the extensions are situated at the distal end of the elongate member." While Applicants continue to disagree, as claim 21 specifically requires that the distal end of the elongate member itself extend beyond a distal end of the guide member and Oxland's cleats are clearly formed on the guide member, claim 21 is amended to clarify that the guide member is disposed on the elongate member at a location proximal to the distal end of the elongate member such that the elongate member extends a distance beyond a distal-most end of the guide member. As shown in Fig. 1 of Oxland, which is reproduced herein, the guide member (72, 74) is not disposed on the elongate member (68, 70) at a location proximal to the distal end. Rather, it is disposed at the distal end. As a result, the distal end of the guide member (72, 74) does not extend a distance beyond the distal end of the elongate member (68, 70). To the contrary, the extension cleats on the guide member extend beyond the distal end of the elongate member. Claim 21, as well as claims 23-26 which depend therefrom, therefore distinguish over Oxland and represent allowable subject matter.




### ***Conclusion***

Applicants submit that all pending claims are in condition for allowance, and allowance thereof is respectfully requested. The Examiner is encouraged to telephone the undersigned attorney for Applicants if such communication is deemed to expedite prosecution of this application.

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Respectfully submitted,

  
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